



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160229159-8236-02]

RIN 0648-BF85

Fisheries of the Northeastern United States; Framework 2 to the Tilefish Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements the management measures contained in Framework Adjustment 2 to the Tilefish Fishery Management Plan and adjusts the 2018 specifications for this fishery. The Mid-Atlantic Fishery Management Council developed Framework Adjustment 2 to improve and simplify the administration of the golden tilefish fishery. These changes include removing an outdated reporting requirement, proscribing allowed gear for the recreational fishery, modifying the commercial incidental possession limit, requiring commercial golden tilefish be landed with the head and fins attached, and revising how assumed discards are accounted for when setting harvest limits. Based on new regulations implemented by this rule, this action updates previously published specifications for the commercial golden tilefish fishery for 2018 and projected specifications for 2019 and 2020.

DATES: This rule is effective *[insert date 30 days after date of publication in the FEDERAL REGISTER]*, except for the amendment to § 648.7(b)(2)(ii), which is effective *[insert date of publication in the FEDERAL REGISTER]*.

ADDRESSES: Copies of Framework 2 and the Environmental Assessment (EA), with its associated Finding of No Significant Impact (FONSI) and the Regulatory Impact Review (RIR), are available from the Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to the Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930, and by e-mail to *OIRA_Submission@omb.eop.gov*, or fax to 202-395-7285

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, 978-281-9341.

SUPPLEMENTARY INFORMATION:

Background

This action implements Framework Adjustment 2 to the Tilefish Fishery Management Plan (FMP). The Mid-Atlantic Fishery Management Council developed this framework to improve and simplify management measures for the golden tilefish fishery in Federal waters north of the Virginia/North Carolina border, consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). We published a proposed rule for this action on October 23, 2017 (82 FR 48967), with a comment period through November 7, 2017. See

Comments and Responses section for more information.

Framework Adjustment 2 Measures

Interactive Voice Response System (IVR) Reporting Requirement Removal

Commercial fishing vessels that land golden tilefish under the individual fishing quota (IFQ) system are currently required to report each trip within 48 hours of landing through our IVR system. The Council originally created this reporting requirement when the fishery was managed under three permit categories, each with a sector-specific annual landing limit. The IVR system provided timely landing reports to track quota use and allowed managers to close a permit category if the annual landing cap was reached. When the Council changed the management of the fishery to an IFQ system, it retained the IVR system to allow additional monitoring of landings. Improvements in electronic dealer-reported landings and other data streams have rendered this IVR report redundant, and the data are no longer used to monitor quotas. This action eliminates this unnecessary reporting requirement.

Recreational Fishing Gear Limit

In recent years, the Council has received reports of recreational fishermen using “mini-longline” gear with a large number of hooks to target tilefish. The Council is concerned the use of this gear could result in increased dead discards of tilefish if fishermen catch more than the eight-fish per person bag limit using this type of gear. The Magnuson-Stevens Act list of authorized gear types at 50 CFR 600.75(v) already restricts the recreational fishery to rod and reel and spear gear. However, to avoid any potential confusion and clarify the amount of gear allowed, this action codifies that rod and reel with a maximum of five hooks per rod is the only authorized recreational tilefish gear for use in the Mid-Atlantic. Anglers could use either a manual or an electric reel.

Commercial Golden Tilefish Landing Condition

The commercial tilefish fishery typically lands fish in a head-on, gutted condition. However, quotas and possession limits are in whole (round) weight. This requires the fishing industry to use a conversion factor to change landed weight to whole weight to comply with incidental possession limits and IFQ allocations. This action requires commercially-caught golden tilefish to be landed with the head and fins attached, although they could be gutted. By requiring this, we can more reliably specify and monitor landing limits and quotas in landed weight, eliminating the need to use a conversion factor. This will simplify catch accounting and improve compliance for individuals participating in the commercial tilefish fishery.

Commercial Golden Tilefish Possession Limit

When the Council created the tilefish IFQ system, it allocated a separate quota and commercial possession limit of 500 lb (227 kg) to allow small landings of tilefish caught by non-IFQ vessels targeting other species. In recent years, there have been increasing reports of non-IFQ vessels specifically targeting golden tilefish to land the maximum commercial incidental possession limit. In an effort to ensure that the incidental fishery functions as originally intended, this action modifies the commercial possession limit to ensure that vessels are targeting other species, and only incidentally catching golden tilefish. This action adjusts the commercial golden tilefish landing limit to: 500 lb (227 kg) or 50 percent, by weight, of all fish, including the golden tilefish, on board the vessel, whichever is less.

Individual Fishing Quota Authorized Vessels

Tilefish IFQ allocation holders may authorize one or more vessels to land tilefish under their allocation. All golden tilefish landed by those vessels are then deducted from that allocation. We do not currently have a mechanism for a vessel to attribute golden tilefish landings from a single trip to more than one IFQ allocation. To create such a system would increase reporting burden on vessels and dealers, and add complexity to the IFQ accounting and cost recovery systems. In order to maintain simple and efficient administration of the IFQ fishery, this action prohibits a vessel from being authorized to land tilefish under multiple IFQ allocations on the same trip. A vessel could still change IFQ allocations over the course of the year while only being authorized by one IFQ allocation at a time. In addition, IFQ allocation holders can lease quota to maintain flexibility in harvesting their allocation.

Assumed Discards in Quota-Setting Process

The current specification process sets the annual catch limit (ACL) equal to the acceptable biological catch (ABC). The ACL is adjusted to address any management uncertainty to set an annual catch target (ACT), then assumed discards of golden tilefish are deducted from the ACT to generate the total allowable landings (TAL). The incidental fishery is then allocated 5 percent of the TAL, and the remaining 95 percent of the TAL is divided among the IFQ shareholders based on their individual quota holdings. However, discarding golden tilefish is prohibited in the IFQ fishery. As a result, observed discards occur almost entirely in the incidental fishery. This action adjusts the specification process to allocate the ACT between the incidental and IFQ fisheries using the 5- and 95-percent split. Sector-specific assumed discards are then deducted to

establish sector-specific TALs. The IFQ TAL is then allocated to the individual IFQ shareholders.

Updated Specifications

On November 7, 2017, we published a final rule (82 FR 51578) setting specifications for the 2018 commercial golden tilefish fishery and announcing projected specifications for the 2019 and 2020 fishing years. As discussed in that rule, the specifications were based on the regulations that were effective at the time but were anticipated to be revised if Framework 2 was fully implemented. Table 1 shows the 2018 golden tilefish specifications as implemented by the November 7, 2017, rule and new specification values that result from this rule. When this rule becomes effective, we will adjust each IFQ allocation based on the new higher IFQ TAL. Table 2 shows updated projected specifications for the 2019 and 2020 fishing years.

Table 1. Changes to 2018 Golden Tilefish Specifications as a Result of this Action

	As Implemented		Framework 2	
	million lb	mt	million lb	mt
Overfishing Limit	2.332	1,058	2.332	1,058
ABC	1.636	742	1.636	742
ACL	1.636	742	1.636	742
IFQ ACT	NA	NA	1.554	705
Incidental ACT	NA	NA	0.082	37
TAL	1.627	738	NA	NA
IFQ TAL	1.546	701	1.554	705
Incidental TAL	0.081	37	0.072	33

Table 2. Updated Projected 2019 and 2020 Golden Tilefish Specifications

	2019		2020	
	million lb	mt	million lb	mt
Overfishing Limit	2.421	1,098	2.291	1,039
ABC	1.636	742	1.636	742
ACL	1.636	742	1.636	742
IFQ ACT	1.554	705	1.554	705
Incidental ACT	0.082	37	0.082	37
IFQ TAL	1.554	705	1.554	705
Incidental TAL	0.072	33	0.072	33

Comments and Responses

We received two comments on the proposed rule. One comment did not mention or relate to the proposed measures or fishing in any way and is not discussed further. The other commenter supported all of the proposed measures and stated the changes would benefit all participants in the fishery.

Changes from the Proposed Rule

There are no changes to the measures from the proposed rule. However, a final rule published on November 15, 2017 (82 FR 52851), made changes to some of the same regulatory paragraphs as this rule. As a result, the regulatory text in this action reflects the current CFR.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Administrator, Greater Atlantic Region, NMFS, has determined that this final rule is consistent with the Tilefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866. Because this rule is not significant under Executive Order 12866, this rule is not an Executive Order 13771 regulatory action.

Pursuant to 5 U.S.C. 553(d)(1), this rule is not subject to the 30-day delayed effectiveness provision of the Administrative Procedure Act because the change to 50 CFR 648.7(a)(2)(ii) relieves the restriction requiring tilefish IFQ vessels to report each fishing trip through the IVR system. As explained above, this reporting requirement is redundant and no longer used for monitoring catch. A delay in effectiveness of this change would unnecessarily continue this reporting burden with no benefit to the industry, the tilefish resource, or the government. All other aspects of this rule are subject to a 30-day delay in effectiveness.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification and no information has arisen leading to a different conclusion. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains a revision to a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), which has been approved by OMB under control number 0648-0590. Public reporting burden for the IVR reporting requirement is estimated to average 2 minutes for each IVR response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed,

and completing and reviewing the collection of information. This rule removes this reporting burden. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *OIRA_Submission@omb.eop.gov*, or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 7, 2018.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 648.7 [Amended]

2. In § 648.7, paragraph (b)(2)(ii) is removed and reserved.

3. In § 648.14, paragraphs (u)(2)(vi) and (viii) are revised and paragraph (u)(2)(ix) is added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(u) * * *

(2) * * *

(vi) Land or possess golden tilefish in or from the Tilefish Management Unit, on a vessel issued a valid tilefish permit under this part, after the incidental golden tilefish fishery is closed pursuant to § 648.295(a)(3), unless fishing under a valid tilefish IFQ allocation permit as specified in § 648.294(a), or engaged in recreational fishing.

* * * * *

(viii) Land or possess golden or blueline tilefish in or from the Tilefish Management Unit, on a vessel issued a valid commercial tilefish permit under this part, that do not have the head and fins naturally attached to the fish.

(ix) Engage in recreational fishing for golden tilefish with fishing gear that is not compliant with the gear restrictions specified at § 648.296.

* * * * *

4. In § 648.291, paragraph (a) introductory text and paragraph (a)(1) are revised to read as follows:

§ 648.291 Tilefish Annual Catch Targets (ACT).

(a) *Golden tilefish.* The Tilefish Monitoring Committee shall identify and review the relevant sources of management uncertainty to recommend ACTs for the individual fishing quota (IFQ) and incidental sectors of the fishery as part of the golden tilefish specification process. The Tilefish Monitoring Committee recommendations shall identify the specific sources of management uncertainty that were considered, technical approaches to mitigating these sources of uncertainty, and any additional relevant information considered in the ACT recommendation process.

(1) *ACT allocation.* (i) The ACT shall be less than or equal to the ACL.

(ii) The Tilefish Monitoring Committee shall include the fishing mortality associated with the recreational fishery in its ACT recommendations only if this source of mortality has not already been accounted for in the ABC recommended by the SSC.

(iii) The Tilefish Monitoring Committee shall allocate 5 percent of the ACT to the incidental sector of the fishery and the remaining 95 percent to the IFQ sector.

* * * * *

5. In § 648.292, paragraphs (a)(1) through (a)(4) are revised to read as follows:

§ 648.292 Tilefish specifications.

(a) * * *

(1) *Annual specification process.* The Tilefish Monitoring Committee shall review the ABC recommendation of the SSC, golden tilefish landings and discards information, and any other relevant available data to determine if the golden tilefish

ACL, ACT, or total allowable landings (TAL) for the IFQ and/or incidental sectors of the fishery require modification to respond to any changes to the golden tilefish stock's biological reference points or to ensure any applicable rebuilding schedule is maintained. The Monitoring Committee will consider whether any additional management measures or revisions to existing measures are necessary to ensure that the IFQ and/or incidental TAL will not be exceeded. Based on that review, the Monitoring Committee will recommend golden tilefish ACL, ACTs, and TALs to the Tilefish Committee of the MAFMC. Based on these recommendations and any public comment received, the Tilefish Committee shall recommend to the MAFMC the appropriate golden tilefish ACL, ACT, TAL, and other management measures for both the IFQ and the incidental sectors of the fishery for a single fishing year or up to 3 years. The MAFMC shall review these recommendations and any public comments received, and recommend to the Regional Administrator, at least 120 days prior to the beginning of the next fishing year, the appropriate golden tilefish ACL, ACT, TAL, the percentage of TAL allocated to research quota, and any management measures to ensure that the TAL will not be exceeded, for both the IFQ and the incidental sectors of the fishery, for the next fishing year, or up to 3 fishing years. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations, and after such review, NMFS will publish a proposed rule in the *Federal Register* specifying the annual golden tilefish ACL, ACT, TAL, and any management measures to ensure that the TAL will not be exceeded for the upcoming fishing year or years for both the IFQ and the incidental sectors of the fishery. After considering public comments,

NMFS will publish a final rule in the *Federal Register* to implement the golden tilefish ACL, ACTs, TALs and any management measures. The previous year's specifications will remain effective unless revised through the specification process and/or the research quota process described in paragraph (a)(5) of this section. NMFS will issue notification in the *Federal Register* if the previous year's specifications will not be changed.

(2) *Total Allowable Landings (TAL)*. (i) The TALs for both the IFQ and the incidental sectors of the fishery for each fishing year will be specified pursuant to paragraph (a)(1) of this section.

(ii) The sum of the sector-specific TAL and the estimated sector-specific discards shall be less than or equal to the ACT for that sector of the fishery.

(3) *TAL allocation*. For each fishing year, up to 3 percent of the incidental and IFQ TALs may be set aside for the purpose of funding research. The remaining IFQ TAL will be allocated to the individual IFQ permit holders as described in § 648.294(a).

(4) *Adjustments to the quota*. If the incidental harvest exceeds the incidental TAL for a given fishing year, the incidental trip limit specified at § 648.295(a)(2) may be reduced in the following fishing year. If an adjustment is required, a notification of adjustment of the quota will be published in the *Federal Register*.

* * * * *

6. In § 648.293, paragraph (a)(1) is revised to read as follows:

§ 648.293 Tilefish accountability measures.

(a) * * *

(1) *Commercial incidental fishery closure*. See § 648.295(a)(3).

* * * * *

7. In § 648.294, paragraph (b)(4) is revised to read as follows:

§ 648.294 Golden tilefish individual fishing quota (IFQ) program.

* * * * *

(b) * * *

(4) *IFQ vessel.* (i) All Federal vessel permit numbers listed on the IFQ allocation permit are authorized to possess golden tilefish pursuant to the IFQ allocation permit.

(ii) An IFQ allocation permit holder who wishes to authorize an additional vessel(s) to possess golden tilefish pursuant to the IFQ allocation permit must send written notification to NMFS. This notification must include:

(A) The vessel name and permit number, and

(B) The dates on which the IFQ allocation permit holder desires the vessel to be authorized to land golden tilefish pursuant to the IFQ allocation permit.

(iii) A vessel listed on the IFQ allocation permit is authorized to possess golden tilefish pursuant to the subject permit, until the end of the fishing year or until NMFS receives written notification from the IFQ allocation permit holder to remove the vessel.

(iv) A single vessel may not be listed on more than one IFQ allocation permit at the same time.

(v) A copy of the IFQ allocation permit must be carried on board each vessel so authorized to possess IFQ golden tilefish.

* * * * *

8. Amend § 648.295 by:

a. Revising the section heading;

b. Revising paragraphs (a) and (b)(1); and

c. Adding paragraph (c).

The revisions and addition read as follows:

§ 648.295 Tilefish commercial trip limits and landing condition.

(a) *Golden tilefish*—(1) *IFQ landings*. Any golden tilefish landed by a vessel fishing under an IFQ allocation permit as specified at § 648.294(a), on a given fishing trip, count as landings under the IFQ allocation permit.

(2) *Incidental trip limit for vessels not fishing under an IFQ allocation*. Any vessel of the United States fishing under a tilefish vessel permit, as described at § 648.4(a)(12), unless the vessel is fishing under a tilefish IFQ allocation permit, is prohibited from possessing more than:

(i) 500 lb (226.8 kg) of golden tilefish at any time, or

(ii) 50 percent, by weight, of the total of all species being landed; whichever is less.

(3) *In-season closure of the incidental fishery*. The Regional Administrator will monitor the harvest of the golden tilefish incidental TAL based on dealer reports and other available information, and shall determine the date when the incidental golden tilefish TAL has been landed. The Regional Administrator shall publish a notice in the *Federal Register* notifying vessel and dealer permit holders that, effective upon a specific date, the incidental golden tilefish fishery is closed for the remainder of the fishing year.

(b) *Blueline tilefish*—(1) *Commercial possession limit*. Any vessel of the United States fishing under a tilefish permit, as described at § 648.4(a)(12), is prohibited from possessing more than 300 lb (136 kg) of gutted blueline tilefish per trip in or from the Tilefish Management Unit.

* * * * *

(c) *Landing condition.* Commercial golden or blueline tilefish must be landed with head and fins naturally attached, but may be gutted.

9. In § 648.296, the section heading and paragraph (a) are revised to read as follows:

§ 648.296 Tilefish recreational possession limits and gear restrictions.

(a) *Golden tilefish.* (1) Any person fishing from a vessel that is not fishing under a tilefish commercial vessel permit issued pursuant to § 648.4(a)(12), may land up to eight golden tilefish per trip. Anglers fishing onboard a charter/party vessel shall observe the recreational possession limit.

(2) Any vessel engaged in recreational fishing may not retain golden tilefish, unless exclusively using rod and reel fishing gear, with a maximum limit of five hooks per rod. Anglers may use either a manual or an electric reel.

* * * * *

[FR Doc. 2018-04974 Filed: 3/12/2018 8:45 am; Publication Date: 3/13/2018]